

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

POLARIS IMAGES CORPORATION,

Plaintiff,

- against -

GIZMODO MEDIA GROUP, LLC

Defendant.

Docket No. 1:19-cv-6325

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Polaris Images Corporation (“Polaris” or “Plaintiff”) by and through its undersigned counsel, as and for its Complaint against Defendant Gizmodo Media Group, LLC (“Gizmodo” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of former NAACP chapter president Rachel Dolezal. Accordingly, Polaris seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York and is registered with the New York Department of State Division of Corporations.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Polaris is an independent photography agency that represents contents owners around the world. Polaris has exclusive distribution relationships with some of its contributors. Polaris has a principle place of business at 259 West 30th Street, Suite 803, New York, New York 10001.

6. Upon information and belief, Gizmodo is a foreign business corporation organized and existing under the laws of the State of Delaware, with a place of business at 2 West 17th Street, New York, New York 10011. Upon information and belief, Gizmodo is registered with the New York State Department of Corporations to do business in New York. At all times material hereto, Gizmodo has owned and operated a website at the URL: www.TheGrapeVine.TheRoot.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Rachel Dolezal, who has an exclusive licensing agreement with Polaris, owns the copyright to a selfie herself (the “Photograph”).

8. Polaris is Dolezal’s exclusive licensing agent.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-087-484.

B. Defendant’s Infringing Activities

10. On March 1, 2017, Gizmodo ran an article on the Website entitled *Rachel Dolezal Has Changed Her Name*. See: <https://thegrapevine.theroot.com/rachel-dolezal-has-changed-her-name-1792867445>. The article featured the Photograph. A true and correct copy of the article and a screenshot of the Photograph on the Website are attached hereto as Exhibit B.

11. Gizmodo did not license the Photograph from Plaintiff for its article, nor did Gizmodo have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Gizmodo infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Gizmodo is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Gizmodo have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Gizmodo be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded punitive damages for copyright infringement;
5. That Plaintiff be awarded attorney's fees and costs;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
July 8, 2019

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz
Richard P. Liebowitz
11 Sunrise Plaza, Suite 305
Valley Stream, NY 11580
Tel: (516) 233-1660
RL@LiebowitzLawFirm.com

Attorneys for Plaintiff Polaris Images Corporation